

Baltodano, Latricia (CAT)

From: Shapiro, Adam (CAT)
Sent: Tuesday, June 13, 2023 2:26 PM
To: 'Russell Davis'
Cc: Baltodano, Latricia (CAT)
Subject: RE: Keene v. CCSF

Mr. Davis,

Again, we have yet to receive any feedback whatsoever from you regarding our proposed ESI order, which was first provided to you on May 30. Instead, you sent us a Idaho model pleading for a discovery plan on Sunday, and now, at the eleventh hour, you're abandoning that entirely and proposing that we adopt the N.D. Cal's template with inappropriate modifications. We can't agree to this proposal either. You've modified the model order to include provisions which pose an undue burden for the City, you left many of the provisions in the template blank (or else have provided no details), and you're making representations in the proposed order that are inaccurate and do not reflect the parties' meet-and-confer efforts. Your proposal that we agree to an inappropriate order and then modify it later is simply not workable.



Absent any feedback from you on our proposal, we plan to file our own proposed order in this matter, as well as a declaration detailing the parties' meet-and-confer efforts to this point and the reasons we were unable to come to an agreement.

Adam M. Shapiro
Deputy City Attorney
Office of City Attorney David Chiu
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From: Russell Davis <loanhound@sbcglobal.net>
Sent: Tuesday, June 13, 2023 9:46 AM
To: Shapiro, Adam (CAT) <Adam.Shapiro@sfcityatty.org>
Subject: Re: Keene v. CCSF

I want to make this as simple as possible. We can always redo this. Please see attached. I used the Ninth Circuit's model form.

Russell Davis, Esq.

On Monday, June 12, 2023 at 09:27:11 PM PDT, Shapiro, Adam (CAT) <adam.shapiro@sfcityatty.org> wrote:

Mr. Davis,

We have yet to receive any specific feedback from you on the model order that we provided almost two weeks ago. Our ESI order follows the provisions of the Northern District's model order, and as we've mentioned, includes additional information that will assist the parties throughout the discovery process. You've departed from it entirely and instead submitted an Idaho "discovery plan," which is not the same thing as an ESI order. If you had concerns regarding the content or format of our proposed ESI order, we would have certainly been willing to discuss them at any point over the last two weeks (and we remain open to discussions on that front), but we're not inclined to simply discard our own proposal to try to salvage a vague, inconsistent, and contradictory modified form pleading that you've borrowed from another jurisdiction. Especially when it was provided on a Sunday, three days before the (extended) deadline set by the court. Problematic sections of your proposed discovery plan include, but are not limited to, section I(b) and most of section V. In terms of what you've left out, I would point you to our proposed ESI order.

Regards,

Adam Shapiro

From: Russell Davis <loanhound@sbcglobal.net>
Sent: Monday, June 12, 2023 4:07 PM
To: Shapiro, Adam (CAT) <Adam.Shapiro@sfcityatty.org>
Subject: Re: Keene v. CCSF

I wish you had provided edits. You state a lot of conclusions without pointing to the language in the document that you object to.

Please provide those so we can have a meaningful discussion.

Russell Davis, Esq.

On Monday, June 12, 2023 at 03:24:24 PM PDT, Shapiro, Adam (CAT) <adam.shapiro@sfcityatty.org> wrote:

Mr. Davis,

We provided your office with a draft ESI order on May 30, 2023. We believe that draft order is reasonable. It not only closely tracks the requirements of the model ESI order available on the Northern District's website, but also provides additional workflows and details to streamline negotiations regarding the identification, review, and production of ESI throughout the matter. Rather than provide edits to our draft order, it appears that you may have modified a model Idaho "discovery plan" from this website -

https://www.id.uscourts.gov/Content_Fetcher/index.cfm/Discovery_Plan_2639.docx?Content_ID=2639

We cannot agree to your proposed discovery plan. Among other things, the plan contains numerous and confusing internal inconsistencies, it significantly departs from the Northern District's model ESI order, it covers a number of issues which have nothing to do with ESI, several provisions would create an undue burden for the City, it is overly vague in several key respects, it calls for the production of data in an unworkable format that would create problems (and an undue burden) for all parties, and it requires the parties to search for and preserve data that is over 24 years old -- far outside the relevant time period for this litigation. Moreover, because it is a "discovery plan" and not an ESI order, it does not address several key issues related to the search for and production of ESI.

We encourage you to review the order that we provided to you, let us know if it is acceptable, and if not, what you would like to modify. It is likely the court would prefer that we try to work this out among ourselves rather than submit competing ESI orders.

I am available to meet and confer further by phone tomorrow afternoon.

Regards,

Adam Shapiro

From: Russell Davis <loanhound@sbcglobal.net>
Sent: Sunday, June 11, 2023 2:47 PM
To: Shapiro, Adam (CAT) <Adam.Shapiro@sfcityatty.org>
Subject: Re: Keene v. CCSF

Please find attached Plaintiffs' ESI discovery plan.

Russ

It looks like we will have to submit separate plans.

On Wednesday, May 31, 2023 at 04:30:01 PM PDT, Shapiro, Adam (CAT) <adam.shapiro@sfcityatty.org> wrote:

Per our conversation, I'm resending the proposed ESI order.



Adam M. Shapiro

Deputy City Attorney

Office of City Attorney David Chiu

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From: Shapiro, Adam (CAT)

Sent: Tuesday, May 30, 2023 11:44 AM

To: 'rdavis@pji.org' <rdavis@pji.org>; 'Kevin Snider' <ksnider@pji.org>

Cc: 'Turner, Coby M.' <CTurner@seyfarth.com>; Super, Amy (CAT) <Amy.Super@sfcityatty.org>; Taylor, Dante (CAT) <Dante.Taylor@sfcityatty.org>; Baltodano, Latricia (CAT) <Latricia.Baltodano@sfcityatty.org>

Subject: Keene v. CCSF

Kevin and Russell,

Today is the deadline for the parties are to file an ESI order in the Keene matter. I understand that you have already agreed to an two-week extension of the deadline in the Guardado matter. Would you be willing to agree to the same extension in the Keene matter?

A draft of the order is attached for your review (it is the same as the one provided in Guardado) - we are still waiting on some feedback from internal stakeholders. Please let us know if you have any comments, concerns, or proposed edits.

Regards,



Adam M. Shapiro

Deputy City Attorney

Office of City Attorney David Chiu

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